

Item SPR05-06 Response Form

Title: **Appellate Procedure: Citations to the record in briefs** (amend Cal. Rules of Court, rule 14)

- ☐ **Agree** with proposed changes
- ☐ **Agree** with proposed changes **only if modified**
- ☐ **Do not agree** with proposed changes

Comments: _____

Name: _____ **Title:** _____

Organization: _____

Address: _____

City, State, Zip: _____

Please **write** or **fax** or **respond using the Internet** to:

Address: Ms. Romunda Price,
Judicial Council, 455 Golden Gate Avenue,
San Francisco, CA 94102
Fax: (415) 865-7664 **Attention:** Romunda Price
Internet: www.courtinfo.ca.gov/invitationstocomment

DEADLINE FOR COMMENT: 5:00 p.m., Monday, June 20, 2005

Your comments may be written on this *Response Form* or directly on the proposal or as a letter. If you are not commenting directly on this sheet please remember to attach it to your comments for identification purposes.

*Circulation for comment does not imply endorsement by the Judicial Council, the Rules and Projects Committee, or the Policy Coordination and Liaison Committee.
All comments will become part of the public record of the council's action..*

Invitation to Comment (SPR05-06)

Title	Appellate Procedure: Citations to the record in briefs (amend Cal. Rules of Court, rule 14)
Summary	This proposal would amend rule 14 to require more precise citations to the record in appellate briefs.
Source	Appellate Advisory Committee Justice Joyce L. Kennard, Chair
Staff	Heather Anderson, Committee Counsel, 415-865-7691, heather.anderson@jud.ca.gov
Discussion	<p>Rule 14(a)(1), which addresses the contents of briefs, currently provides that each brief must support any reference to a matter in the record by a citation to the record. The Los Angeles County Bar Association Appellate Courts Committee has suggested that there are three recurring problems with citations to the record in briefs under this rule. First, many records contain multiple volumes so that a simple citation to a page is not helpful in locating the relevant portion of the record. Second, in appeals from summary judgments, citations are being made not to the record in the case, but to a separate statement under Code of Civil Procedure section 437c that summarizes information contained in the record. This, again, makes it difficult to locate the original source material in the record. Third, some documents in the record contain their own separate pagination; citations to these documents sometimes reference the document name and separate pagination, rather than providing the location of the document within the record.</p> <p>To address these problems, the Appellate Advisory Committee is proposing, as suggested by the Los Angeles County Bar Association Appellate Courts Committee, that rule 14(a) be amended to require that citations to the record include the volume number and page number of the record where the matter appears. The committee also proposes adding a sentence to address situations in which the record is submitted in an electronic format, such as on CDs.</p> <p>The Appellate Advisory Committee also proposes that rule 14(c), relating to the length of briefs, be amended to exclude from the maximum word count any Certificate of Interested Entities or Persons required to be included in the brief. The proposed new requirement for such certificates is addressed in a separate invitation to comment now being circulated.</p>

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Finally, several nonsubstantive formatting changes to the rule are being proposed to conform it to the current rule style.

Attachment

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Rule 14 of the California Rules of Court would be amended, effective January 1, 2006, to read:

Rule 14. Contents and form of briefs

(a) Contents

(1) Each brief must:

(A) Begin with a table of contents and a table of authorities separately listing cases, constitutions, statutes, court rules, and other authorities cited;

(B) State each point under a separate heading or subheading summarizing the point, and support each point by argument and, if possible, by citation of authority; and

(C) Support any reference to a matter in the record by a citation to the volume and page number of the record where the matter appears. If the record is submitted in an electronic format, the citation must identify the place in the record where the matter appears with equivalent specificity.

(2) An appellant's opening brief must:

(A) State the nature of the action, the relief sought in the trial court, and the judgment or order appealed from;

(B) State that the judgment appealed from is final, or explain why the order appealed from is appealable; and

(C) Provide a summary of the significant facts limited to matters in the record.

(b) Form

(1) A brief may be reproduced by any process that produces a clear, black image of letter quality. The paper must be white or unbleached, recycled, 8½ by 11 inches, and of at least 20-pound weight.

(2) Any conventional typeface may be used. The typeface may be either proportionally spaced or monospaced.

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- (3) The type style must be roman; but for emphasis, italics or boldface may be used, or the text may be underscored. Case names must be italicized or underscored. Headings may be in uppercase letters.
- (4) Except as provided in (11), the type size, including footnotes, must not be smaller than 13-point, and both sides of the paper may be used.
- (5) The lines of text must be unnumbered and at least one-and-a-half-spaced. Headings and footnotes may be single-spaced. Quotations may be block-indented and single-spaced. Single-spaced means six lines to a vertical inch.
- (6) The margins must be at least 1½ inches on the left and right and 1 inch on the top and bottom.
- (7) The pages must be consecutively numbered. The tables and the body of the brief may have different numbering systems.
- (8) The brief must be bound on the left margin. If the brief is stapled, the bound edge and staples must be covered with tape.
- (9) The brief need not be signed.
- (10) The cover, preferably of recycled stock, must be in the color prescribed by rule 44(c) and must state
 - (A) The title of the brief;
 - (B) The title, trial court number, and Court of Appeal number of the case;
 - (C) The names of the trial court and each participating trial judge;
 - (D) The name, address, telephone number, and California State Bar number of each attorney filing or joining in the brief, but the cover need not state the bar number of any supervisor of the attorney responsible for the brief; and
 - (E) The name of the party that each attorney on the brief represents.
- (11) If the brief is produced on a typewriter:
 - (A) A typewritten original and carbon copies may be filed only with the presiding justice's permission, which will ordinarily be given only to

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unrepresented parties proceeding in forma pauperis. All other typewritten briefs must be filed as photocopies.

(B) Both sides of the paper may be used if a photocopy is filed; only one side may be used if a typewritten original and carbon copies are filed.

(C) The type size, including footnotes, must not be smaller than standard pica, 10 characters per inch. Unrepresented incarcerated litigants may use elite type, 12 characters per inch, if they lack access to a typewriter with larger characters.

(c) Length

(1) A brief produced on a computer must not exceed 14,000 words, including footnotes. Such a brief must include a certificate by appellate counsel or an unrepresented party stating the number of words in the brief. The person certifying may rely on the word count of the computer program used to prepare the brief.

(2) A brief produced on a typewriter must not exceed 50 pages.

(3) The tables, a certificate under (1), ~~and~~ any attachment under (d), and any Certificate of Interested Entities or Persons under rule 14.5 are excluded from the limits stated in (1) or (2).

(4) A combined brief in an appeal governed by rule 16 must not exceed double the limits stated in (1) or (2).

(5) On application, the presiding justice may permit a longer brief for good cause.

(d) * * *

(e) Noncomplying briefs

If a brief does not comply with this rule:

(1) The reviewing court clerk may decline to file it, but must mark it “received but not filed” and return it to the party; or

(2) If the brief is filed, the reviewing court may, on its own or a party’s motion, with or without notice:

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- 1 (A) Oder the brief returned for corrections and refiling within a specified
- 2 time;
- 3
- 4 (B) Strike the brief with leave to file a new brief within a specified time; or
- 5
- 6 (C) Disregard the noncompliance.